

## 36-501

### Chapter 36.--HOTELS, LODGINGHOUSES AND RESTAURANTS

#### Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS

**36-501. Definitions.** As used in the food service and lodging act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Hotel" means every building or other structure which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are offered for pay primarily to transient guests and in which four or more rooms are used for the accommodation of such guests, regardless of whether such building or structure is designated as a cabin camp, tourist cabin, motel or other type of lodging unit.

(b) "Rooming house" means every building or other structure which is kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for pay to transient or permanent guests and in which eight or more guests may be accommodated, but which does not maintain common facilities for the serving or preparation of food for such guests.

(c) "Boarding house" means every building or other structure which is kept, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for pay to transient or permanent guests and in which eight or more guests may be accommodated, and which maintains common facilities for the serving or preparation of food for such guests. The term "boarding house" shall not include facilities licensed under paragraph (5) of subsection (a) of K.S.A. 75-3307b and amendments thereto.

(d) "Lodging establishment" means a hotel, rooming house or boarding house.

(e) "Food service establishment" means any place in which food is served or is prepared for sale or service on the premises or elsewhere. Such term shall include, but not be limited to, fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tea room, sandwich shop, soda fountain, tavern, private club, roadside stand, industrial-feeding establishment, catering kitchen, commissary and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

(f) "Food" means any raw, cooked or processed edible substance, beverage or ingredient used or intended for use or for sale, in whole or in part, for human consumption.

(g) "Food vending machine" means any self-service device which, upon insertion of a coin, coins or tokens, or by other similar means, dispenses unit servings of food, either in bulk or in packages without the necessity of replenishing the device between each vending operation but shall not include any vending machine dispensing only bottled or canned soft drinks, or prepackaged and nonpotentially hazardous food, chewing gum, nuts or candies.

(h) "Food vending machine company" means any person who is in the business of operating and servicing food vending machines.

(i) "Food vending machine dealer" means any manufacturer, remanufacturer or distributor of food vending machines who sells food vending machines to food vending machine companies.

(j) "Person" means an individual, partnership, corporation or other association of persons.

(k) "Municipality" means any city or county of this state.

(l) "Secretary" means the secretary of health and environment.

(m) "Department" means the department of health and environment.

**History:** L. 1975, ch. 314, § 5; L. 1986, ch. 324, § 1; July 1.

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**36-503. License for food service establishment required; exceptions; application, form, application and license fees, exemptions; inspection; denial, hearing; display; duplicate; existing licenses continued in effect.** (a) It shall be unlawful for any person to engage in the business of conducting a food service establishment unless such person shall have in effect a valid license therefor issued by the secretary of health and environment, except that any food service establishment providing only a device for the convenience and operation by a customer for the purpose of heating prepackaged food with no provision for consumption of food on the premises, or any food service establishment licensed by the secretary pursuant to any other law and maintained in connection with any premises licensed by the secretary pursuant to any other law shall not be required to obtain a license under this section, nor shall any

person engaged only in the serving of food on railway dining cars or in the occasional sale or serving of food be required to obtain a license hereunder. For the purpose of this section, the sale or serving of food in the same location less than seven days in any calendar year shall be construed as the occasional sale or serving of food. Nothing in this act shall prevent the secretary of health and environment from inspecting any food service establishment when a complaint against such food service establishment is transmitted to the secretary of health and environment or any authorized agent thereof except that no provision of this act shall be construed to authorize the secretary of health and environment to inspect or cause to be inspected under the provisions of this act any food service establishment licensed by the secretary of health and environment pursuant to any other law or maintained in connection with any premises licensed by the secretary pursuant to any other law which food service establishment is not required to obtain a license under this section.

(b) Applications for such licenses shall be made on forms prescribed by the secretary, and each such application shall be accompanied by an application fee and by a license fee, each of which shall be established in an amount fixed by rules and regulations adopted by the secretary of health and environment. Application fees may be adjusted in accordance with the type of establishment or based on other criteria as determined by the secretary, but in no event shall any application fee exceed \$200. Such license fee shall not exceed \$200 and shall be fixed in an amount which, together with the application fee, is sufficient to defray the cost of administering the food service establishment inspection and licensure activities of the secretary. Prior to the issuance of any such license, the secretary shall inspect or cause to be inspected the food service establishment designated in the application, to determine that it complies with the standards for food service establishments promulgated pursuant to this act. If such food service establishment is found to be in compliance, the secretary shall issue the license. If the application for license is denied, the secretary shall give written notice thereof to the applicant, stating also that the applicant is entitled to a hearing thereon if a written request therefor is filed with the secretary within 20 days of the date such notice is sent. Such hearing shall be held in accordance with the provisions of the Kansas administrative procedure act.

(c) Every license issued hereunder shall be displayed conspicuously in the food service establishment for which it is issued, and no such license shall be transferable to any other person or location. Whenever any such license is lost, destroyed or mutilated, a duplicate license shall be issued to any otherwise qualified licensee upon application therefor and the payment of a fee in the amount of \$3.

(d) Any person who, on the effective date of this act, has a valid license to operate a restaurant shall be a licensee under the provisions of this act, and any such license is hereby deemed to be a license to operate a food service establishment issued under the provisions of this act.

(e) A premises where prepackaged individual meals are distributed to persons eligible under the federal older Americans act shall not pay any fee prescribed under subsection (b).

**History:** L. 1975, ch. 314, § 7; L. 1976, ch. 205, § 1; L. 1978, ch. 154, § 2; L. 1981, ch. 181, § 1; L. 1982, ch. 181, § 1; L. 1984, ch. 313, § 56; L. 1993, ch. 196, § 1; L. 2001, ch. 203, § 1; July 1.

## 36-504

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#### Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS

**36-504. License for food vending machine companies required; application, form, application fee; inspection; denial, hearing; license fee; display; duplicate; records; information on machine; machines from licensed dealers only; inoperative machines; additional machines; license for vending machine dealers; application, form, fee; certain reports required.** (a) It shall be unlawful for any person to engage in the business of conducting a food vending machine company unless such person shall have in effect a valid license therefor issued by the secretary of health and environment. Applications for such licenses shall be on forms prescribed by the secretary, and each such application shall specify the brand name and serial number of each food vending machine to be operated and serviced by the applicant during the period of licensure and shall be accompanied by an application fee in an amount fixed by rules and regulations adopted by the secretary of health and environment not to exceed \$100 and by the appropriate license fee required by subsection (b). Prior to the issuance of any such license, the secretary shall inspect or cause to be inspected the applicant and each food vending machine for which the applicant is to be licensed, to determine that they are in compliance with the applicable food service standards promulgated pursuant to this act. If the applicant and such machines are found to be in compliance with such standards, the secretary shall issue the license. If the application for license is denied, the secretary

shall give written notice thereof to the applicant, stating also that the applicant is entitled to a hearing thereof if a written request therefor is filed with the secretary within twenty (20) days of the date such notice is sent. Such hearing shall be held in accordance with the provisions of the Kansas administrative procedure act.

(b) The license fee for a food vending machine company shall be an amount equal to the product of the total number of food vending machines to be operated and serviced by the food vending machine company during the calendar year, multiplied by \$3, except that no food vending machine shall be included in such total number which is operated and serviced by a state institution or a public school.

(c) Every license issued hereunder shall be displayed conspicuously on the premises of the food vending machine company for which it is issued, and no such license shall be transferable to any other person nor shall such license be valid for the operation and service of any food vending machines other than those specified in the application for a license under subsection (a) or those additional food vending machines for which operation and servicing are authorized pursuant to subsection (f). Whenever any such license is lost, destroyed or mutilated, a duplicate license shall be issued to any otherwise qualified licensee upon application therefor and the payment of a fee in the amount of \$3.

(d) Each licensed food vending machine company shall keep a current record of the location of each food vending machine which such company is licensed to operate and service, and such record shall be available at any reasonable time to the secretary. Each licensed food vending machine company shall cause the name of such company, the service telephone number and such additional information as the secretary may require, to be displayed conspicuously on each food vending machine that such company is licensed to operate and service.

(e) Each licensed food vending machine company shall notify the secretary within 10 days of the brand name and serial number of all food vending machines that become inoperative and are thereafter disposed of by such company or that are obtained by such company for use in addition to those which the food vending machine company is currently licensed to operate and service. Except for food vending machines obtained through isolated or occasional purchases thereof from a licensed food vending machine company, food vending machine companies shall be licensed to operate and service only food vending machines which are obtained from food vending machine dealers licensed pursuant to subsection (g).

(f) Whenever food vending machines are obtained by a licensed food vending machine company which are to be operated and serviced in addition to those currently authorized under the license, such company may apply to the secretary to include such additional machines under the license of such company. Such application shall be in the form prescribed by the secretary and each such application shall specify the brand name and serial number of each such additional machine and shall be accompanied by a fee of \$2 for each such additional machine. Prior to the issuance of such authorization, the secretary shall inspect or cause to be inspected each additional food vending machine to determine that it is in compliance with the applicable food service standards promulgated pursuant to this act. Only such additional machines which are in compliance with such standards shall be included under the license of such company.

(g) It shall be unlawful for any person to engage in business as a food vending machine dealer and to sell food vending machines to food vending machine companies licensed in this state unless such person shall have a valid license therefor issued by the secretary of health and environment. Applications for such licenses shall be on forms prescribed by the secretary and each such application shall be accompanied by the fee prescribed in this subsection. A person without this state may make application to the secretary for a license as a food vending machine dealer and be granted such a license by the secretary and thereafter shall be subject to all of the applicable provisions of this act and entitled to act as a licensed food vending machine dealer in this state, subject however, to such person filing proof with the application to the secretary of health and environment that such person has appointed the secretary of state of Kansas as agent for receipt of service of process relating to any matter or issue arising under this act. The fee for a food vending machine dealer's license for all or any part of any calendar year shall be \$25.

(h) A licensed food vending machine dealer shall report to the secretary of health and environment on or before the last day of each calendar month all sales of food vending machines made during the preceding month to Kansas vending machine companies, on forms prescribed by such secretary, showing the name and address of the purchaser, brand name and serial number of the machine and its sale price.

**History:** L. 1975, ch. 314, § 8; L. 1976, ch. 205, § 2; L. 1978, ch. 154, § 3; L. 1984, ch. 313, § 57; July 1, 1985.

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**36-505. Renewal of licenses; application, form, fee; inspection; noncompliance, notice; remedial action; denial, hearing; failure to renew, restoration fee.** Except as otherwise provided in this section, any license issued under the provisions of this act shall expire on December 31 of the year in which it is issued, and may be renewed by making application to the secretary on or before the expiration date. Application for renewal of a license shall be made on a form prescribed by the secretary and shall be accompanied by the license fee required for the issuance of an original license. Prior to the renewal of any such license, the secretary shall inspect or cause to be inspected the licensed premises or food vending machines which are to be operated and serviced under authority of a license issued under this act to determine the compliance of such premises with the applicable standards promulgated pursuant to this act. Lodging establishments shall not be required to be inspected prior to license renewal. If an inspection of the premises is required and such inspection is not made prior to the expiration date of the license sought to be renewed, such license shall be valid until the inspection has been made and the secretary has granted or denied the application for renewal. No license shall be renewed unless and until the licensed premises for which it is issued is found to be in compliance with the applicable standards promulgated pursuant to this act. A food vending machine dealer license shall be renewed without inspection. If the secretary shall refuse to renew any license, the secretary shall give written notice thereof to the licensee, specifying the changes or alterations necessary in the establishment to effect complete compliance with the applicable standards and stating that, if such compliance is effected within the period of time designated in the notice, the license shall be renewed. If the licensee fails to effect complete compliance with the applicable standards within the time prescribed in such notice, the application for renewal of a license shall be denied, and the secretary shall give written notice thereof to the applicant, stating also that the applicant is entitled to a hearing thereon, if a written request therefor is filed with the secretary within 20 days of the date such notice is sent. Such hearing shall be held in accordance with the provisions of the Kansas administrative procedure act. If, for any reason, a licensee fails to renew a license prior to the expiration date thereof, the licensee may obtain a renewal of such license within 30 days following the expiration date thereof, by complying with the foregoing provisions of this section and paying a restoration fee in the amount of \$10.

**History:** L. 1975, ch. 314, § 9; L. 1984, ch. 313, § 58; L. 1993, ch. 196, § 2; July 1.

## 36-507

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#### Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS

**36-507. Rules and regulations establishing standards for food service establishments and food vending machines.** (a) The secretary of health and environment, after consultation with the food service and lodging advisory committee, shall adopt rules and regulations establishing minimum standards for the safe and sanitary operation of food service establishments. The food service standards promulgated by such rules and regulations shall relate to:

- (1) Preparation, sale, serving and storage of food;
- (2) water supply;
- (3) heating;
- (4) lighting;
- (5) ventilation;
- (6) toilet and other sanitary facilities;
- (7) conditions increasing the hazards of fire, accidents or other calamities;
- (8) sewage disposal; and
- (9) such other minimum conditions which the secretary deems necessary for the operation and maintenance of a food service establishment in a safe and sanitary manner.

(b) The standards promulgated pursuant to the rules and regulations adopted hereunder shall be designed to ensure the health, comfort and safety of the guests in food service establishments. Such standards may be based upon or incorporate by reference specific editions, or portions thereof, of nationally recognized codes establishing food service standards. Such standards shall be applicable uniformly throughout the state, and any provision of an ordinance or resolution of any municipality, prescribing safety and sanitation standards for food service establishments, which does not conform to the minimum standards

promulgated by the secretary pursuant to this section, shall be null and void; but nothing herein shall be construed as precluding any municipality from establishing by ordinance or resolution food service standards which are more stringent than those established by the secretary: *Provided*, That no such ordinance or resolution shall be effective unless and until it has been approved by the secretary.

(c) In addition to the food service standards promulgated pursuant to this section, the secretary shall adopt rules and regulations establishing specific requirements for sanitary design, construction, location, servicing and operation of food vending machines. Such standards may be based upon, or may incorporate by reference, recommended vending sanitation codes of the United States public health service which are in existence on the effective date of this act.

**History:** L. 1975, ch. 314, § 11; July 1.

## **36-508**

### **Chapter 36.--HOTELS, LODGINGHOUSES AND RESTAURANTS**

#### **Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS**

**36-508. Annual inspections by secretary; noncompliance, notice; remedial action; suspension or revocation, hearing.** The secretary shall inspect or cause to be inspected, at least once annually, every food service establishment in this state. For such inspections the secretary or the secretary's lawful agent shall have the right of entry and access thereto, at any reasonable time. Whenever, upon inspection, it shall be determined that any establishment does not comply with the applicable standards promulgated by the rules and regulations of the secretary, it shall be the duty of the secretary to give written notice to the owner, proprietor or agent in charge of such establishment of the changes or alterations necessary to effect a complete compliance with such standards. Such notice shall provide that the establishment shall be brought into compliance with the applicable standards within a period of time specified in the notice, which shall be not less than 10 days, except that a shorter period of time for compliance may be provided in the notice whenever the secretary believes it essential to protect the public health and safety. Such notice also shall state that if compliance with the applicable standards is not effected within the time prescribed, the license for such establishment shall be subject to suspension or revocation. The licensee of any establishment, for which a notice of noncompliance is given pursuant to this section, may apply to the secretary for an extension of the time prescribed in the notice for compliance with the applicable standards. Upon review of any such application, the secretary may grant or deny such application or modify the provisions of any such notice with respect to the time for compliance with any of the particulars stated therein. Upon reinspection of any establishment for which a notice of noncompliance has been issued pursuant to this section, if such establishment is found to be in noncompliance with the applicable standards promulgated pursuant to this act, the secretary may determine to suspend or revoke the license issued for such establishment. In such event, the secretary shall send written notice to the licensee that the license for such establishment will be suspended or revoked, effective 20 days after the date such notice is sent, unless within such time the licensee files with the secretary a written request for a hearing on the proposed suspension or revocation. All hearings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

**History:** L. 1975, ch. 314, § 12; L. 1984, ch. 313, § 59; L. 1993, ch. 196, § 3; July 1.

## **36-509**

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#### **Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS**

**36-509. Hearing; powers of secretary or hearing officer; procedure; affirmation, rescission or modification of order; appeal.** (a) Whenever a timely request for a hearing shall be filed with the secretary pursuant to the provisions of this act the secretary shall set a time and place for such hearing which shall be held within not to exceed 20 days of the request therefor. Upon such hearing, the secretary or a person designated by the secretary as a hearing officer may issue subpoenas for the attendance of witnesses and the production of relevant books and papers. At the hearing, the applicant shall have the right to be represented by counsel, to present witnesses and evidence in own behalf and to cross-examine adverse witnesses.

(b) Upon completion of the hearing, the secretary may affirm, rescind or modify the order denying, suspending or revoking the applicant's license. Any person aggrieved by any such decision of the secretary

may appeal to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions.

**History:** L. 1975, ch. 314, § 13; L. 1984, ch. 313, § 60; July 1, 1985.

## **36-510**

### **Chapter 36.--HOTELS, LODGINGHOUSES AND RESTAURANTS**

#### **Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS**

**36-510. Enforcement of act by secretary; contracts providing for enforcement by municipalities, fire marshal or secretary of health and environment authorized; certain food service establishments licensed under other laws; compliance with standards required; delegation of enforcement; suspension or revocation of license; hearing.** (a) The secretary shall be responsible for the enforcement of the lodging and food service standards promulgated pursuant to this act, but the secretary is hereby authorized and empowered to contract with the governing body of any municipality for the enforcement of all or any portion of such standards, whenever the secretary shall determine that such municipality has adequate personnel to provide proper enforcement. Any municipality entering into a contract with the secretary to enforce such standards shall act as an agent of the secretary in carrying out such duties, and no such municipality shall charge any lodging establishment or food service establishments a fee for services performed as an agent of the secretary under such contract which is in addition to and separate from any fee such establishment is required to pay to the secretary under the provisions of this act. Such municipality shall enforce such standards within such municipalities of this state as are designated in the contract. Any inspection of lodging or food service establishments by officers, employees or agents of any such municipality, and any notice of noncompliance issued as a result of any such inspection, shall have the same force and effect as if such had been done by the secretary.

(b) The secretary and the state fire marshal are hereby authorized and empowered to enter into a contract authorizing the state fire marshal and the fire marshal's deputies or lawful agents to enforce all or any portion of the lodging or food service standards promulgated pursuant to this act. Such contract shall designate specific lodging or food service establishments, or types of lodging or food service establishments, wherein such authority may be exercised. Any inspection of such establishments by the state fire marshal or the fire marshal's deputies or lawful agents, to determine compliance with lodging or food service standards established pursuant to this act, and any notice of noncompliance issued as a result of any such inspection, shall have the same force and effect as if such had been done by the secretary.

Such contract also may provide similar authority for the secretary of health and environment and the secretary's officers, employees and agents with respect to enforcement of all or any portion of the Kansas fire prevention code in specified lodging or food service establishments, or in types of lodging or food service establishments. Any inspection of such establishments by the secretary, or the secretary's officers, employees and agents, to determine compliance with the Kansas fire prevention code, shall have the same force and effect as if performed by the state fire marshal or the marshal's deputies and agents.

(c) Any food service establishment which is not required to be licensed under the provisions of this act, but which is licensed by the secretary pursuant to any other law, or which is maintained in connection with premises which are licensed by the secretary pursuant to any other law, shall be subject to the food service standards established pursuant to this act. In the discretion of the secretary, enforcement of such standards may be delegated to the personnel of the department who are responsible for enforcing the provisions of the law under which such food service establishment or premises are licensed. Failure of any such premises to comply with the food service standards promulgated pursuant to this act shall be grounds for the suspension or revocation of the license issued for the premises under such other law. The licensee shall not have any license revoked or suspended without first being given an opportunity for a hearing in accordance with the provisions of the Kansas administrative procedure act.

**History:** L. 1975, ch. 314, § 14; L. 1976, ch. 205, § 3; L. 1984, ch. 313, § 61; July 1, 1985.

## **36-511**

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#### **Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS**

**36-511. Food vending machines; license required to operate or service; failure to obtain license or to comply with standards, sealing of machine; removal or breaking seal declared to be**

**misdemeanor.** No food vending machine shall be operated or serviced in this state except by a food vending machine company and under a license obtained therefor in accordance with the provisions of K.S.A. 36-504. Each food vending machine operated or serviced in this state without such a license or in a manner which is not in compliance with the applicable standards for food service promulgated pursuant to this act, shall be sealed by the secretary by placing appropriately labeled seals on each such machine so that it is then inoperable. It shall be unlawful for any person to remove such seal from a food vending machine, or otherwise break such seal such that the food vending machine is again operable, unless such removal or breaking is accomplished by specific authorization of the secretary upon placing such machine under authority of a valid license issued to a food vending machine company or correction of the noncomplying conditions of such machine by the food vending machine company licensed therefor. Such unlawful removal or breaking of a seal on a food vending machine under this section shall be a class C misdemeanor.

**History:** L. 1975, ch. 314, § 15; July 1.

## **36-512**

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#### **Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS**

**36-512. Disposition of moneys; food service inspection reimbursement fund created.** (a) The secretary shall remit all moneys received by the secretary under the provisions of this act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Except for moneys remitted under subsection (b), upon receipt of each such remittance the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(b) The secretary shall remit all moneys received by the secretary from fees from food service establishments located in a municipality where food service inspection services are provided by a local agency under contract with the secretary to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the food service inspection reimbursement fund which is hereby created. On July 1, 1988, and on the first day of each month thereafter, the director of accounts and reports shall transfer from the food service inspection reimbursement fund to the state general fund an amount equal to 20% of all money credited to such fund during the preceding month. Expenditures from the food service inspection reimbursement fund shall be made to reimburse each local agency under contract with the secretary for food service inspection services in an amount equal to 80% of the money received from food service establishments in the municipality served by the local agency. All expenditures from the food service inspection reimbursement fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or a person designated by the secretary.

**History:** L. 1975, ch. 314, § 16; L. 1983, ch. 286, § 9; L. 1985, ch. 139, § 1; L. 1988, ch. 135, § 1; L. 2001, ch. 5, § 106; July 1.

## **36-513**

### **Chapter 36.--HOTELS, LODGINGHOUSES AND RESTAURANTS**

#### **Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS**

**36-513. Service of notice.** Any written notice required to be issued by the secretary pursuant to this act, shall be served in accordance with the notice provisions of the Kansas administrative procedure act.

**History:** L. 1975, ch. 314, § 17; L. 1984, ch. 313, § 62; July 1, 1985.

## **36-515**

### **Chapter 36.--HOTELS, LODGINGHOUSES AND RESTAURANTS**

#### **Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS**

**36-515. Violation of standards; suspension or revocation of license; violation of act declared to be misdemeanor; injunctive relief.** (a) Any failure by a licensee to comply with the food service or lodging standards established pursuant to this act shall be grounds for the suspension or revocation of such licensee's license to operate a food service establishment, a lodging establishment or food vending machines.

(b) Upon conviction, any person who violates any provision of this act shall be guilty of a class C misdemeanor, except that upon any subsequent conviction such person shall be guilty of a class B misdemeanor.

(c) The secretary may seek injunctive relief from the appropriate district court to enjoin any operator of a food service establishment, lodging establishment or food vending machine company from conducting business when such operator has failed to make application for or to obtain a license for such purpose as required by the food service and lodging act or when such license has been suspended or revoked.

**History:** L. 1975, ch. 314, § 19; L. 1982, ch. 181, § 2; July 1.

## **36-515a**

### **Chapter 36.--HOTELS, LODGINGHOUSES AND RESTAURANTS**

#### **Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS**

**36-515a. Temporary suspension of license without notice or hearing; limitations.** (a) If the secretary finds that the public health or safety is endangered by the continued operation of a lodging establishment or food service establishment, the secretary may suspend temporarily the license of such establishment without notice or hearing in accordance with the emergency adjudication procedures of the provisions of the Kansas administrative procedure act.

(b) In no case shall a temporary suspension of a license under this section be in effect for a period of time in excess of 90 days. At the end of such period of time, the licensee shall be reinstated to full licensure unless the secretary has suspended or revoked the license, after notice and hearing, or the license has expired as otherwise provided under the food service and lodging act.

(c) This section shall be a part of and supplemental to the food service and lodging act.

**History:** L. 1982, ch. 181, § 4; L. 1984, ch. 313, § 63; July 1, 1985.

## **36-515b**

### **Chapter 36.--HOTELS, LODGINGHOUSES AND RESTAURANTS**

#### **Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS**

**36-515b. Civil penalty for violation of act; procedure.** (a) Any person who violates any provision of the food service and lodging act or any rule and regulation adopted pursuant thereto, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in an amount not to exceed \$500 for each violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation.

(b) The director of the division of health, upon a finding that a person has violated any provision of the food service and lodging act or any rule and regulation adopted pursuant thereto, may impose a civil penalty within the limits provided in this section upon such person, which civil penalty shall be in an amount to constitute an actual and substantial economic deterrent to the violation for which the civil penalty is assessed.

(c) No civil penalty shall be imposed pursuant to this section except upon the written order of the director of the division of health to the person who committed the violation. Such order shall state the violation, the penalty to be imposed and the right of such person to appeal to the secretary. Any such person, within 20 days after notification, may make written request to the secretary for a hearing in accordance with the provisions of the Kansas administrative procedure act. The secretary shall affirm, reverse or modify the order of the director and shall specify the reasons therefor.

(d) Any person aggrieved by an order of the secretary made under this section may appeal such order to the district court in the manner provided by the act for judicial review and civil enforcement of agency actions.

(e) Any penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(f) This section shall be a part of and supplemental to the food service and lodging act.

**History:** L. 1982, ch. 181, § 5; L. 1985, ch. 140, § 1; L. 2001, ch. 5, § 107; July 1.



## **36-515c**

### **Chapter 36.--HOTELS, LODGINGHOUSES AND RESTAURANTS**

#### **Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS**

**36-515c. Citation of act.** The provisions of K.S.A. 36-501 to 36-515, inclusive, and K.S.A. 36-515a to 36-515c, inclusive, and acts amendatory thereof or acts made specifically supplemental thereto shall be known and may be cited as the food service and lodging act.

**History:** L. 1982, ch. 181, § 6; July 1.

## **36-516**

### **Chapter 36.--HOTELS, LODGINGHOUSES AND RESTAURANTS**

#### **Article 5.--FOOD SERVICE AND LODGING ESTABLISHMENTS**

**36-516. Gas stoves in public places, vents required; penalty for violation.** (a) No person shall install or own any gas stove in any public building, resort, hotel, restaurant, tourist camp or other similar public place in this state unless such stove is properly connected with a chimney or other outlet or combination of outlets.

(b) Any violation of the provisions of this section is a class C misdemeanor.

**History:** L. 1977, ch. 147, § 1; July 1.